

AN ORDINANCE

BY



AN ORDINANCE BY THE CITY OF ATLANTA TO AMEND THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA TO ESTABLISH A UNIFORM FRANCHISE FEE APPLICABLE TO ALL HOLDERS OF A CABLE OR VIDEO FRANCHISE ISSUED BY EITHER THE CITY OF ATLANTA OR THE STATE OF GEORGIA PURSUANT TO O.C.G.A. 36-76-1 *ET SEQ.* KNOWN AS THE “CONSUMER CHOICE FOR TELEVISION ACT” OF 2007 BY ADOPTING SECTIONS 138-140 AND 138-140.1; TO DESIGNATE AN AGENT; TO PROVIDE FOR CODIFICATION; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, O.C.G.A. 36-76-1 *et seq.* known as the “Consumer Choice for Television Act” of 2007 was recently enacted into law by the State of Georgia and provides that a cable or video service operator may not offer cable or video services within the City of Atlanta without first having obtained a franchise from the State of Georgia or from the City of Atlanta; and

WHEREAS, should such a provider seek a franchise from the State of Georgia for the provision of video or cable services with the City of Atlanta, the City shall be notified by the Secretary of State’s Office and the applicant of the franchise application under O.C.G.A. 36-76-1 *et seq.*; and

WHEREAS, O.C.G.A. 36-76-1 *et seq.* authorizes the City of Atlanta to collect a franchise fee of up to 5%, the maximum amount established by federal and state law, of each cable or video provider’s gross revenues generated within the city, so long as: the City timely informs the applicant and the Secretary of State of the rate to be applied; and the rate is uniformly applied to all cable service providers and video service providers serving the City of Atlanta; and

WHEREAS, the City of Atlanta currently collects a five (5%) franchise fee from its current cable provider; and

WHEREAS, the City of Atlanta considers a franchise fee from a cable or video provider utilizing the public rights of way as fair compensation to the public for the use of the rights of way and a means or promoting the public health, safety, welfare and economic development of the City of Atlanta and to protect public works infrastructure; and

WHEREAS, the City of Atlanta is authorized to designated an agent to provide notice of the city’s franchise fee rate.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS, as follows:

SECTION 1: The Code of Ordinances of the City of Atlanta is hereby amended by adding a Section to be numbered Section 138-140, which said section reads as follows:

“Section 138-140. Franchise fee for state or local issued cable or video franchise.

There shall be imposed a uniform franchise fee of five percent (5 %) of the gross revenues on any cable or video franchisee from services provided within the City of Atlanta.”

SECTION 2: The Code of Ordinances of the City of Atlanta is further amended by adding a Section to be numbered 138-140.1, which said section reads as follows:

“Section 138-140.1. Authorized designee.

The city hereby authorizes the Commissioner of the Department of Public Works, upon receipt of notice to the city of its right to designate a franchise fee for an applicant for or holder of an existing state franchise, to provide written notice to the Secretary of State and each applicant for or holder of a state franchise within a service area that is wholly or partially located within the city limits of the five (5) % franchise fee rate applicable to such applicant or holder of a state franchise.”

SECTION 3: That Chapter 2, Article 2, Division 2, Subdivision II, Section 2-105 of the City Code requiring a hearing for the setting of rates is hereby waived in light of the requirement that the franchise fee rate be uniformly set. As the current rate for cable providers is five (5) %, video service franchise fee rates will be five (5) %.

SECTION 4: The preamble to this Ordinance is hereby incorporated into the Ordinance as if set out fully herein.

SECTION 5: The sections, paragraphs, sentences, clauses or phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared illegal by the valid judgment or decree of any court of competent jurisdiction, such illegality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 6: All Ordinances and parts of Ordinances in conflict herewith are hereby waived to the extent of the conflict.